

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554**

**In the Matter of  
Sunset Digital Communications, Inc.**

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**WC Docket No. 18-\_\_\_\_\_**

**Application for Authorization Pursuant to  
Section 214 of the Communications Act of 1934,  
as Amended, for Assignment of Assets  
and/or Transfer of Control**

**APPLICATION FOR TRANSFER OF CONTROL**

Sunset Digital Communications, Inc. (“Sunset Digital,” “Transferor” or “Applicant”) hereby requests approval from the Federal Communications Commission (“FCC” or “Commission”) pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and Section 63.04 of the Commission’s rules, 47 C.F.R. §§ 63.04, to transfer of control of Sunset Digital to Sunset Digital Holding, LLC (“Sunset Holding” or “Transferee”). For the reasons stated herein, Applicant respectfully submits that this Application is subject to the Commission’s “streamlined” processing rules found in Section 63.03(b)(2) and thus prompt approval can be accomplished in a manner that raises no competitive concerns that could delay Commission approval of the transaction. Applicant also requests that the Commission act as expeditiously as possible to grant the approval requested, so that Transferor and Transferee can timely consummate the proposed transaction and meet important business objectives.

In support of the above requests, Applicant provides the following information as required by Section 63.04(a) of the Commission’s Rules, 47 C.F.R. § 63.04(a):

**1. Name, Address and Telephone Number – 47 C.F.R. § 63.04(a)(1).**

Sunset Digital Communications, Inc.  
333 Fraley Avenue  
Duffield, Virginia 24244  
Phone: (276) 431-7200  
Fax: (276) 431-7202

**2. State of Organization – 47 C.F.R. § 63.04(a)(2).**

Applicant, Sunset Digital, is a corporation organized under the laws of the Commonwealth of Virginia with its headquarters in Duffield, Virginia. Transferee, Sunset Digital Holding, LLC is a limited liability company organized under the law of the state of Delaware.

**3. Contact Information -- 47 C.F.R. § 63.04(a)(3).**

All correspondence, notices and inquiries regarding this Application should be addressed to:

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**4. Ownership Interest – 47 C.F.R. § 63.04(a)(4).**

i. Sunset Digital Communications, Inc. (“Sunset Digital”) is a corporation organized under the laws of the Commonwealth of Virginia. Sunset Digital is a next-generation fiber-optic company based in Duffield, Virginia providing broadband, private data, fiber-optic television and telephone services to residents, businesses, medical facilities, banks, and other Internet service providers. The company has branch offices in Kingsport, Tennessee, and Tazewell, Tennessee, with an additional office planned for Danville, Virginia.

The shareholders that currently own ten percent (10%) or more of the issued and outstanding stock of Sunset Digital are provided below:

<b>Name</b>	<b>Occupation</b>	<b>Citizenship</b>	<b>Ownership Percent</b>
Paul Elswick	Telecommunications	USA	50%
Ryan Elswick	Telecommunications	USA	50%

Paul Elswick’s address is 342 Elswick Drive, Jonesville, Virginia 24263. Ryan Elswick’s address is 2120 St. Erics Court, Kingsport, Tennessee 37660.

Sunset Fiber, LLC (“Sunset Fiber”) is currently a wholly owned subsidiary of Sunset Digital. Sunset Fiber is a limited liability company organized under the laws of the Commonwealth of Virginia. Sunset Fiber currently holds a CLEC certificate from the Virginia State Corporation

Commission.<sup>1</sup> However, it is not at this time providing telecommunications service in its own name or servicing any customers.

**ii. Transferee**

The transferee, Sunset Digital Holding, LLC (“Sunset Holding” or “Transferee”), is a newly formed limited liability company organized under the laws of the state of Delaware. It is merely a holding company and will not provide telecommunications service in its own name. Sunset Holding does not have any interlocking directorates with a foreign carrier,<sup>2</sup> nor will it have any such directorates or managers after consummation of this transaction. The owners that will own ten percent (10%) or more of the issued and outstanding ownership units of Sunset Digital Holding, LLC upon consummation of the transfer of control are provided below:

<b>Name</b>	<b>Occupation</b>	<b>Citizenship</b>	<b>Ownership Percent</b>
Paul Elswick	Telecommunications	USA	16.5%
Ryan Elswick	Telecommunications	USA	16.5%
Point Broadband, LLC	Broadband Internet Access Service	USA	59.5%

As noted above, Point Broadband, LLC (“Point Broadband”) is a limited liability company organized under the laws of Georgia. Point Broadband offers fast, reliable internet service to residential and business customers in rural and suburban America. The company is making significant investments building state-of-the-art wireless broadband networks to better serve areas that, until now, have had limited or no internet service. Point Broadband will be the majority shareholder of Sunset Digital Holding. Point Broadband’s FRN is 0026198762. Point Broadband

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<sup>1</sup> VA SCC Case No. 2015-00013 (Jun. 26, 2015).

<sup>2</sup> As defined by 47 C.F.R. § 63.09(d).

does not have any interlocking directorates with a foreign carrier,<sup>3</sup> nor will it have any such directorates or managers after consummation of this transaction. At this time, Point Broadband is not authorized to provide telecommunications service in any jurisdiction.

Point Broadband is owned 36.06% by ITC Capital Partners, LLC (“ITC”), a Delaware limited liability company. No other individual or group of persons acting in concert owns 10% or more of Point Broadband, either directly or indirectly. Each equity owner of ITC is a U.S. citizen, and none has been convicted of any felony or antitrust violation. ITC’s FRN is 0026211102.

**5. Federal Benefits/Anti-Drug Act of 1988 Certification – 47 C.F.R. § 63.04(a)(5).**

As evidenced by the signatures to this Application, Applicant certifies, pursuant to Sections 1.2001 through 1.2003 of the Commission’s rules that no party to the Application is subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. 21 U.S.C. § 862.

**6. Description of the Transaction – 47 C.F.R. § 63.04(a)(6).**

The subject matter of this application is one of two related transactions. The first transaction was initiated on February 5, 2016, when Sunset Digital and Bristol Virginia Utilities Authority (“BVU”) entered into an Asset Purchase Agreement (the “Agreement”) to allow Sunset Digital to acquire BVU’s telecommunications assets (the “OptiNet System”). The OptiNet System consists of an extensive network of facilities that provides broadband Internet, private data, fiber optic television and telephone services to residents, businesses, medical facilities, banks, and other Internet service providers in Virginia and Tennessee. Under terms of the Agreement, the newly incorporated entity, Sunset Holding, will provide the necessary funding for Sunset Fiber to acquire the OptiNet System assets. Sunset Fiber will in turn make a payment of \$50 million to BVU for

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<sup>3</sup> As defined by 47 C.F.R. § 63.09(d).

said assets. After the transaction, Sunset Fiber will own and operate the OptiNet System assets on behalf of Sunset Holding. On January 16, 2018, the Commission published a public notice, approving Sunset Fiber's acquisition of the OptiNet System, along with related financial transactions.<sup>4</sup>

Prior to the closing of the above transaction, Sunset Fiber will no longer be a wholly owned subsidiary of Sunset Digital. Instead, Sunset Holding will become the parent company of both Sunset Digital and Sunset Fiber, and Sunset Holding will be indirectly controlled by Point Broadband. This is the transaction that is the subject of this Application.<sup>5</sup> Going forward, Sunset Digital will continue to provide the same telecommunications service that it currently provides to the same base of customers. Sunset Fiber in turn will only be involved with the operation of the newly acquired OptiNet System assets. For the Commission's convenience, pre- and post-transaction organizational charts are attached as Exhibit A.

## **7. Description of Geographic Areas in Which Transferor and Transferee Offer Domestic Telecommunications Services – 47 C.F.R. § 63.04(a)(7).**

As noted above, Transferor, Sunset Digital, is a next-generation fiber-optic company based in Duffield, Virginia providing broadband, private data, fiber-optic television and telephone services to residents, businesses, medical facilities, banks, and other Internet service

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<sup>4</sup> *Notice of Domestic Section 214 Authorizations Granted*, WC Docket Nos. 17-353, 17-273 and 17-268, DA 18-47 (WCB Jan. 16, 2018) ("Jan. 16 Notice"); *see also Domestic Section 214 Application Filed for the Acquisition of Certain Assets of BVU Authority by Sunset Digital Communications, Inc.*, Public Notice, DA 17-1202, WC Docket No. 17-268 (WCB Dec. 14, 2017).

<sup>5</sup> At the same time the Commission approved Sunset Fiber's acquisition of the OptiNet System, the Commission also approved an investment by H.I.G. Capital Partners V, L.P. into Sunset Digital Holdings, Inc. *See* Jan. 16 Notice; *see also Domestic Section 214 Application Filed for the Transfer of Control of Sunset Digital Communications, Inc.*, Public Notice, DA 17-1201, WC Docket No. 17-273 (WCB Dec. 14, 2017). However, the parties have agreed to forego the investment by H.I.G. Capital Partners V, L.P. Instead, the Applicant herein asks for approval of the virtually same basic transaction, with a change in the financial arrangements related to the acquisition.

providers.<sup>6</sup> The company has branch offices in Kingsport, Tennessee, and Tazewell, Tennessee, with an additional office planned for Danville, Virginia. In Virginia, Sunset Digital's area of service includes the County of Lee, County of Wise, and County of Scott, as well as the City of Norton and City of Danville. In Tennessee, Sunset Digital's area of service includes the County of Claiborne, County of Hancock, City of Kingsport, City of Johnson City, and the County of Washington.

**8. Request for Streamlined Treatment of Application – 47 C.F.R. § 63.04(a)(8).**

The Applicant respectfully requests streamlined treatment of this Application pursuant to Sections 63.03 of the Commission's rules. This Application is eligible for streamlined processing pursuant to Section 63.03(b)(2) of the Commission's rules because: (1) the proposed transaction will result in Transferee having a market share in the interstate interexchange market of less than ten percent (10%); (2) Transferee will provide competitive telephone exchange services exclusively in geographic areas served by a dominant local exchange carrier that is not a party to the transaction; and (3) neither the Transferee nor any of its affiliates are regulated as dominant with respect to any service.

**9. Other Pending Commission Applications Concerning the Proposed Transaction – 47 C.F.R. § 63.04(a)(9).**

Contemporaneously with the instant Application, Sunset Digital is filing a short-form application for Commission Auction 903. The Commission's grant of this Application is necessary to close the transaction and allow Sunset to participate in the Auction.

**10. Special Consideration – 47 C.F.R. § 63.03(a)(10).**

None. Neither transferor nor transferee is facing imminent business failure.

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<sup>6</sup> Sunset Digital's FRN is 0010678001.

**11. 63.04(b)(11): Waiver Requests (If Any) – 47 C.F.R. § 63.03(a)(11).**

None.

**12. Public Interest Statement – 47 C.F.R. § 63.03(a)(12).**

Applicant respectfully submits that the transaction and transfer of control described herein will serve the public interest. The proposed transaction will serve the public interest because the transfer of control will provide Sunset Digital with new sources of investment that will allow it to continue its track record of rapid growth. Additional financing will provide opportunities for Sunset Digital to expand its current geographic coverage and the range of its current products. Sunset Digital currently offers competitive telecommunications service that offers competitive pricing, high quality services, and responsive customer service. The transaction will permit Sunset Digital to continue to offer these services to its existing consumers and will allow it to expand these same competitive services to more customers over the next decade.

Sunset Digital's customers will not see any change to their services as a result of this change of control. Customers will receive the same reliable, low-cost service after the transaction closes. Thus, because the transaction will expand competition and benefit consumers, Applicant submits that the transaction is in the public interest.



## **CONCLUSION**

For the foregoing reasons, Applicant respectfully requests that the Commission promptly grant this Application.

Respectfully Submitted,

SUNSET DIGITAL  
COMMUNICATIONS, INC.

By: /s/ Robert J. Gastner  
Counsel

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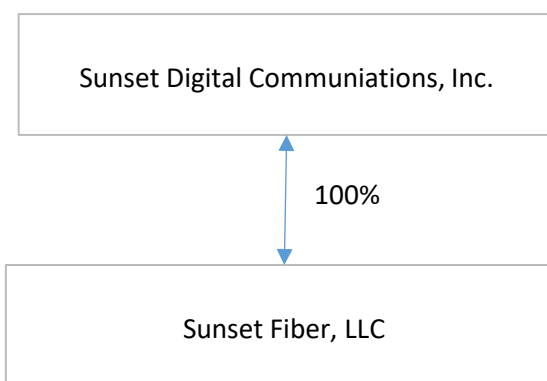
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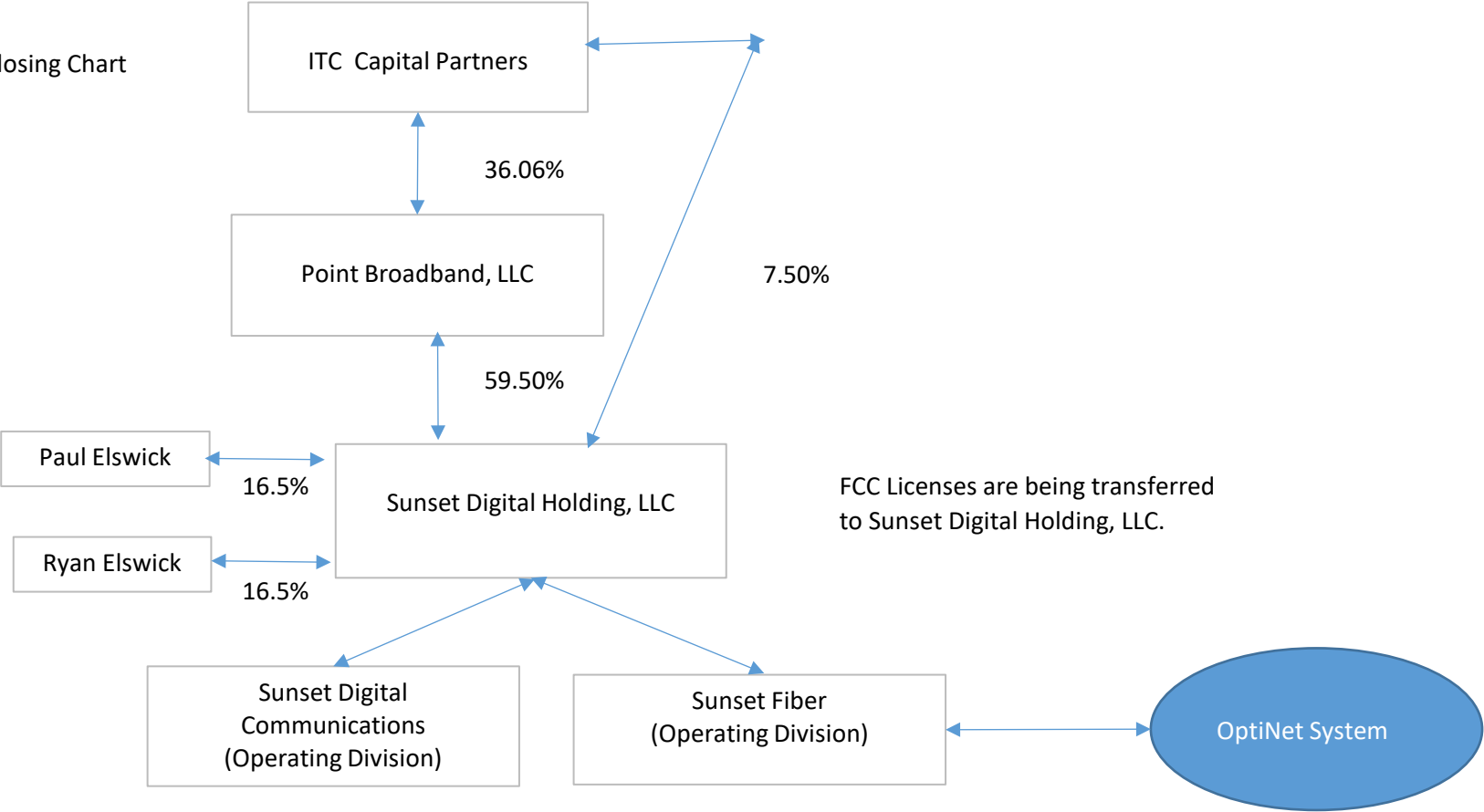
*Attorneys for Sunset Fiber, LLC, Sunset  
Digital Holding, LLC,  
and Sunset Digital Communications, Inc.*

# Exhibit A

**Pre- Closing Chart**



Post-Closing Chart



# **EXHIBIT B**

## CERTIFICATION

I, Ryan Elswick, Secretary of Sunset Digital Communications, Inc., being first duly sworn, hereby certify under penalty of perjury that I am authorized to make this certification on behalf of the Transferor in the foregoing application. I further certify that the information in the foregoing application as it pertains to the Transferor is true and accurate to the best of my knowledge, and that the Transferor is not subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 883(a), as amended.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 30th day of March, 2018.



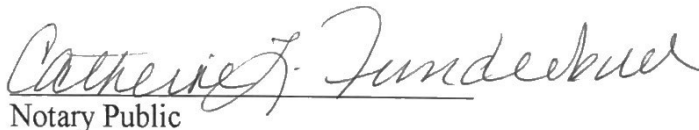
Ryan Elswick  
Secretary  
Sunset Digital Communications, Inc.

STATE OF South Carolina )

ss:

CITY/COUNTY OF Charleston )

Subscribed and sworn before me this 30th day of March, 2018. In testimony whereof, I have hereunto set my hand and official seal on the day, month, and year aforesaid.

  
Notary Public

My commission expires Sept 24, 2023

